

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1757

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-8-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under an employee health benefit plan.**

(b) As used in this section, "employee health benefit plan" means a group plan of self-insurance, policy, or contract that:

- (1) provides coverage for prescription drugs; and**
- (2) is established, purchased, or entered into by an employer for the benefit of the employer's employees.**

(c) As used in this section, "employer" means the following:

- (1) A public employer.**
- (2) A state educational institution (as defined in IC 20-12-0.5-1).**

(d) As used in this section, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

(e) An employee health benefit plan that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to a covered individual.

(f) An employee health benefit plan may not require a covered individual to obtain a prescription drug from a pharmacy designated under subsection (e) as a condition of coverage.



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SECTION 2. IC 25-26-13-18, AS AMENDED BY P.L.187-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) To be eligible for issuance of a pharmacy permit, an applicant must show to the satisfaction of the board that:

- (1) Persons at the location will engage in the bona fide practice of pharmacy. The application must show the number of hours each week, if any, that the pharmacy will be open to the general public.
- (2) The pharmacy will maintain a sufficient stock of emergency and frequently prescribed drugs and devices as to adequately serve and protect the public health.
- (3) Except as provided in section 19 of this chapter, a registered pharmacist will be in personal attendance and on duty in the licensed premises at all times when the practice of pharmacy is being conducted and that the pharmacist will be responsible for the lawful conduct of the pharmacy.
- (4) One (1) pharmacist will have not more than four (4) ~~unlicensed persons~~ **certified pharmacy technicians or pharmacy technicians in training certified under IC 25-26-19** under the pharmacist's immediate and personal supervision at any time. As used in this clause, "immediate and personal supervision" means within reasonable visual and vocal distance of the ~~licensed person~~ **pharmacist**.
- (5) The pharmacy will be located separate and apart from any area containing merchandise not offered for sale under the pharmacy permit. The pharmacy will:
 - (A) be stationary;
 - (B) be sufficiently secure, either through electronic or physical means, or a combination of both, to protect the products contained in the pharmacy and to detect and deter entry during those times when the pharmacy is closed;
 - (C) be well lighted and ventilated with clean and sanitary surroundings;
 - (D) be equipped with a sink with hot and cold running water or some means for heating water, a proper sewage outlet, and refrigeration;
 - (E) have a prescription filling area of sufficient size to permit the practice of pharmacy as practiced at that particular pharmacy; and
 - (F) have such additional fixtures, facilities, and equipment as the board requires to enable it to operate properly as a pharmacy in compliance with federal and state laws and regulations governing pharmacies.

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A pharmacy licensed under IC 25-26-10 (before its repeal on July 1, 1977) on June 30, 1977, must comply with the provisions of this clause before December 31, 1982, unless for good cause shown the board grants a waiver or otherwise exempts it.

(b) Prior to opening a pharmacy after receipt of a pharmacy permit, the permit holder shall submit the premises to a qualifying inspection by a representative of the board and shall present a physical inventory of the drug and all other items in the inventory on the premises.

(c) At all times, the wholesale value of the drug inventory on the licensed items must be at least ten percent (10%) of the wholesale value of the items in the licensed area.

SECTION 3. IC 25-26-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 19. Regulation of Pharmacy Technicians

Sec. 1. As used in this chapter, "board" refers to the Indiana board of pharmacy established by IC 25-26-13-3.

Sec. 2. As used in this chapter, "pharmacy technician" means an individual who:

- (1) works under the direct supervision of a pharmacist licensed under this article; and
- (2) performs duties to assist a pharmacist in activities that do not require the professional judgment of a pharmacist.

Sec. 3. As used in this chapter, "pharmacy technician in training" means a person who is enrolled in a training program for pharmacy technicians prescribed by the board.

Sec. 4. (a) The board may adopt rules under IC 4-22-2 to:

- (1) implement and enforce this chapter;
- (2) set fees under IC 25-1-8; and
- (3) establish education and training requirements for certification to practice as a pharmacy technician.

(b) The board shall:

- (1) establish standards for the competent practice of pharmacy technicians; and
- (2) subject to IC 4-21.5, IC 25-1-7, and IC 25-1-9, conduct proceedings on any matter under the jurisdiction of the board.

Sec. 5. (a) The board shall issue a pharmacy technician certificate to an individual who:

- (1) applies to the board in the form and manner prescribed by the board;
- (2) is at least eighteen (18) years of age;



- (3) has not been convicted of a crime that has a direct bearing upon the individual's ability to practice competently;**
- (4) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter;**
- (5) has paid the fee set by the board under section 4 of this chapter; and**
- (6) has completed a program of education and training approved by the board or has passed a certification examination offered by a nationally recognized certification body approved by the board.**

(b) For good cause, the board may waive the age requirement under subsection (a)(2).

Sec. 6. (a) The board shall issue a pharmacy technician in training permit to an individual who:

- (1) applies to the board in the form and manner prescribed by the board;**
- (2) is at least eighteen (18) years of age;**
- (3) has not been convicted of a crime that has a direct bearing upon the individual's ability to practice competently;**
- (4) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter; and**
- (5) has applied for certification under section 5 of this chapter.**

(b) An applicant:

- (1) may work as a pharmacy technician in training without a permit for not more than thirty (30) consecutive days after the applicant files an application under this section;**
- (2) shall provide the applicant's employer with a receipt issued by the board that:**

(A) provides the date an application under this section was filed; and

(B) indicates that the fee has been paid; before the applicant may begin work as a pharmacy technician in training; and

- (3) may request an additional thirty (30) day period to practice as a pharmacy technician in training without a permit. The board may approve a request under this subdivision if the board determines that the extension is for good cause.**

(c) A pharmacy technician in training permit expires on the earliest of the following:

- (1) The date the permit holder is issued a pharmacy**

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technician certificate under this chapter.

(2) The date the board disapproves the permit holder's application for a pharmacy technician certificate under this chapter.

(3) The date the permit holder ceases to be enrolled in good standing in a pharmacy technician training program approved by the board. The graduation of a permit holder from a pharmacy technician program does not cause the permit to expire under this subdivision.

(4) Sixty (60) days after the date that the permit holder successfully completes a program approved by the board.

(5) Twelve (12) months after the date of issuance.

(d) For good cause, the board may waive the age requirement in subsection (a)(2).

Sec. 7. (a) A pharmacy technician certificate expires on a date set by the health professions bureau in each even-numbered year.

(b) An application for renewal of a pharmacy technician certificate must be accompanied by the appropriate fee.

(c) If a person fails to renew a pharmacy technician certificate, the certificate may be reinstated by meeting the requirements under IC 25-1-8-6.

(d) The board may require a person who applies for a certificate under subsection (c) to appear before the board and explain the reason why the person failed to renew a pharmacy technician certificate.

Sec. 8. A certified pharmacy technician may not perform the following activities:

(1) Providing advice or consultation with the prescribing practitioner or other licensed health care provider regarding the patient or the interpretation and application of information contained in the prescription or drug order, medical record, or patient profile.

(2) Providing advice or consultation with the patient regarding the interpretation of the prescription or the application of information contained in the patient profile or medical record.

(3) Dispensing prescription drug information to the patient.

(4) Final check on all aspects of the completed prescription and assumption of the responsibility for the filled prescription, including the appropriateness of the drug for the patient and the accuracy of the:

(A) drug dispensed;



(B) strength of the drug dispensed; and

(C) labeling of the prescription.

(5) Receiving a new prescription drug order over the telephone or electronically unless the original information is recorded so a pharmacist may review the prescription drug order as transmitted.

(6) Any activity required by law to be performed only by a pharmacist.

(7) Any activity that requires the clinical judgment of a pharmacist and is prohibited by a rule adopted by the board.

Sec. 9. (a) An individual may not practice as a pharmacy technician unless the individual is certified under this chapter.

(b) An individual may not act as a pharmacy technician in training unless the individual has obtained a permit under this chapter or the individual is acting as a pharmacy technician in training during the period permitted under section 6(b) of this chapter.

(c) An individual who knowingly violates this section commits a Class D felony.

Sec. 10. (a) If an individual violates this chapter, the attorney general, the board, or the prosecuting attorney of the county in which the individual violates this chapter may maintain an action in the name of the state to enjoin the individual from continued violation of this chapter.

(b) An injunction issued under this section does not relieve an individual person from criminal prosecution but is in addition to any remedy provided under criminal law.

SECTION 4. IC 27-8-31.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31.2. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "insurer" refers to an insurer (as defined in IC 27-1-2-3) that issues a policy of accident and sickness insurance.

Sec. 2. As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

Sec. 3. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 4. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.

Sec. 5. (a) An insurer that provides coverage for prescription

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drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to an insured.

(b) An insurer may not require an insured to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 5. IC 27-13-37.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 37.5. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 2. (a) A health maintenance organization may designate, under an individual contract or a group contract that provides coverage for prescription drugs, a mail order or an Internet based pharmacy to provide prescription drugs to an enrollee.

(b) A health maintenance organization may not require an enrollee to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 6. [EFFECTIVE JULY 1, 2003] (a) IC 5-10-8-13, as added by this act, applies to an employee health benefit plan that is entered into, issued, delivered, amended, or renewed after June 30, 2003.

(b) IC 27-8-31.2, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2003.

(c) IC 27-13-37.5, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2003.

SECTION 7. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 25-26-19, as added by this act, an individual is not required to be certified under IC 25-26-19, as added by this act, to practice as a pharmacy technician before January 1, 2004.

(b) Notwithstanding IC 25-26-19, as added by this act, an individual is not required to hold a permit under IC 25-26-19, as added by this act, to act as a pharmacy technician in training before January 1, 2004.

(c) This SECTION expires July 1, 2004.

SECTION 8. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 25-26-19-5(a)(6), as added by this act, an individual who applies for certification as a pharmacy technician to the board of pharmacy before July 1, 2004, may be certified as a pharmacy technician without being required to meet the requirements of

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IC 25-26-19-5(a)(6), as added by this act, if the individual has been employed as a pharmacy technician for two (2) years before July 1, 2003.

(b) This SECTION expires July 1, 2004.

SECTION 9. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "board" refers to the board of pharmacy established by IC 25-26-13-3.

(b) Before December 31, 2003, the board shall adopt rules to set the pharmacy technician certificate fee at twenty-five dollars (\$25) in compliance with IC 25-1-8 and as allowed under IC 25-26-19, as added by this act.

(c) This SECTION expires December 31, 2004.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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